Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link Up	)	WC Docket No. 03-109

COMMENTS OF THE NEBRASKA PUBLIC SERVICE COMMISSION

EXECUTIVE SUMMARY

The Commission must take immediate action to eliminate waste, fraud, and abuse in its Lifeline/Link Up program. The Commission should enact rules which are designed to eliminate duplicative Lifeline subscriptions and increase oversight of Lifeline discounts. The Commission should not place a cap on the Lifeline/Link Up fund. Rather, the Commission should re-evaluate the size of the fund and its priorities after duplicative claims are eliminated. The Commission should not adopt AT&T's proposal to eliminate ETC designations for carriers that wish to offer Lifeline discounts. AT&T's proposal would remove carriers' accountability to the states and crucial state oversight over the Lifeline products and services that are offered to consumers. The Commission should not require all states to adopt the federal program criteria currently utilized by federal default

states. States should continue to have the flexibility to determine the best way to establish eligibility for participation in this program.

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INTRODUCTION

The Nebraska Public Service Commission (NPSC) hereby submits these comments in response to the Notice of Proposed Rulemaking (NPRM) released on March 4, 2011.[1] The NPRM sought comment on proposed reforms to the Lifeline and Link Up programs to eliminate waste, fraud, and abuse, clarifying consumer eligibility, constraining the size of the low-income fund, improving program administration, and modernizing the program in line with new and emerging technologies. The NPSC appreciates the opportunity to comment on these issues.

DISCUSSION

Measures To Assist in Detecting Duplicate Claims

The Commission sought comments on proposed rule amendments designed to eliminate duplicate claims.[2] Given that USAC audits have found significant duplication of Lifeline subscribers in some instances,[3] the reporting of information by ETCs to eliminate duplicate claims is recommended as an immediate method to eliminate duplication. The creation of a uniform national, regional or state-coordinated Lifeline database will likely take time and joint cooperation with the states. We also acknowledge

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1 *In the Matter of Lifeline and Link Up Reform and Modernization,* WC Docket No. 11-42, *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, *Lifeline and Link Up,* WC Docket No. 03-109, Notice of Proposed Rulemaking (March 4, 2011)(NPRM).

2 *See NPRM,* paras 47-57.

3 *See id,* para. 48.

that there will be some cost involved to develop a national Lifeline database. However, the benefits of having a national "real time" database which reduces the likelihood of fraud and abuse will far outweigh the costs. As we have stated previously, a national database maintained by USAC (or other designated body) with a goal toward "real time" verification would be more efficient.[4] In developing such a database, customer privacy should be given special attention.[5] The database should contain no customer-specific information beyond name and address and the carrier serving the customer.[6] The database should be used only for its intended purpose and not used for marketing or commercial purposes.

State-specific information such, as the Lifeline eligibility criteria, should be maintained and added to the national database at the state level.[7] As an example, the NPSC uses income verification confirmed through participation in Medicaid, Children's Medicaid, Food Stamps, Low-Income Housing Energy Assistance Program (LIHEAP), Federal Public Housing Assistance, or Supplemental Security Income (SSI) but does not use the national school free or reduced lunch program for Nebraska Lifeline eligibility. Accordingly, Nebraska consumers would still be required to participate in Medicaid, Children's Medicaid, Food Stamps, Low-Income Housing Energy Assistance Program (LIHEAP), Federal Public Housing Assistance, or Supplemental Security Income (SSI), and consumers enrolled in the reduced or free school lunch program would not be eligible

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[4] *See* Comments of the Nebraska Public Service Commission, *In the Matter of the Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109 (July 2010) at 6.

[5] *See id.*

[6] *Id.*

[7] *See id.*

for the Lifeline discount in Nebraska. States connected to the national database could also de-enroll subscribers in "real time" when the subscriber is no longer eligible for the Lifeline program.

Remedies To Address Duplicate Claims

Initially, USAC should handle the process of duplicate Lifeline subscription resolution. Although subscribers may be wary of responding to an inquiry from USAC, the potential for fraud may increase if inquiries are sent from the ETCs. If ETCs are required to contact Lifeline subscribers with duplicate subscriptions, the Lifeline subscribers may still indicate that they want service from both ETCs, perhaps on different dates, and the duplicate resolution process would need to continue. Oversight of the ETC's processes in handling duplicative claims would also need to continue. Having inquiries handled by one central organization, on the other hand, would allow for fewer mistakes and more streamlined oversight in the process. Additionally, in order to facilitate the process, we suggest that when USAC identifies an instance where there is duplication in support, the form letter to the subscriber should only include the two ETCs involved with a request for the subscriber to choose the preferred Lifeline service provider. The form letter should have a required response date. If no response is provided within the reasonable timeframe given, then the consumer would be de-enrolled from the Lifeline program.

Addresses

The NPSC recommends adoption of a proposed rule which would limit support to a single address and that the practice of collecting unique residential addresses from applicants before providing discounted service should be codified into this rule.[8] In Nebraska, Lifeline or Link Up applicants are required to provide their unique residential address in order to apply for Lifeline service. The applicant may provide a post office box as their mailing address, but the applicant will not receive subsidized service without a residential address. If other less permanent and unique addresses such as post office boxes are permitted on applications, the chances of one household receiving multiple discounted services could increase. Codifying the use of unique residential addresses would address the concern of one household receiving multiple discount services as well as ensure uniform Lifeline recipient data submission by states to USAC for use in any potential national database.

Customer Usage of Lifeline-Supported Service

We support an amendment to the Commission's rules which would prohibit an ETC from seeking reimbursement from the Universal Service Fund for a Lifeline customer who fails to use his or her service.[9] However, we would recommend that the period of inactivity should be 30 days rather than 60 days. It is reasonable to assume that a Lifeline customer's primary means of telecommunications is their Lifeline-supported subscription; therefore, it is to be expected that the service to which the Lifeline customer

[8] *See id.*, para. 63.

[9] *See id.*, para. 82.

receives support would be used every month. A Lifeline customer's failure to use his or her service reasonably demonstrates that the service is discontinued, and an ETC should not be able to receive reimbursement for service that is no longer in use.

Minimum Consumer Charges

A rule should be adopted requiring all ETCs in all states to collect some minimum monthly amount from participating households.[10] This mechanism would help ETCs maintain an ongoing relationship with Lifeline subscribers, enable ETCs to better track Lifeline subscribers, and allow ETCs to determine if the subscribers still want the service. A minimum monthly amount would be also more effective in capturing when a Lifeline subscriber has moved or if the Lifeline subscriber has inappropriately transferred their phone to a third party that is not eligible to receive the Lifeline discount.

The Commission sought comment on whether $1 as a minimum monthly amount was sufficient.[11] We believe that a minimum monthly amount of $1 may not be sufficient, whereas an amount of $2-3 may be more appropriate in order to allow ETCs to recover the costs of billing and impose a minimal obligation on the Lifeline subscriber.[12] We would recommend that this amount be the same for all Lifeline subscribers regardless of income level since states utilize different eligibility criteria and may not collect income information from their Lifeline subscribers.

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[10] *Id.*, para. 85.

[11] *Id.*, para. 86.

[12] *See id.*, para. 89.

If the Commission decides to adopt a program-wide monthly fee requirement, it should also explicitly prohibit carriers from waiving the fee. Waiving the fee would eliminate the benefits of charging a monthly fee to Lifeline subscribers discussed above.

However, if the Commission does not determine that a minimum monthly amount from the subscriber should be collected by the Lifeline provider, then we recommend the Commission adopt its proposal to require carriers to collect an amount at least on a one-time basis. We believe that collection of an amount on a one-time basis is preferable to allowing Lifeline subscribers to receive service at no charge.

We recommend that the Commission and the states jointly develop requirements which prohibit carriers from using deceptive tactics when marketing their Lifeline products to consumers. Consumers should be informed about the eligibility criteria, the type of service(s) to be included in the Lifeline offering, and any limitations on their service (such as toll usage).

Constraining the Size of the Low-Income Fund

Constraining the size of the Low-Income Fund through a national fund cap would have disastrous results. In some states, like Nebraska, the Lifeline/Link Up program is underutilized. Capping the fund would run counter to the purpose of the Lifeline program which is to provide benefits to qualifying subscribers and increase affordable access to telecommunications services. While concerns about the growth of the low-income fund are justified, the most appropriate way to address those concerns are measures to eliminate waste, fraud, and abuse, not a cap on the size of the Lifeline/Link

Up program.[13] The establishment of a fund cap may arbitrarily deny Lifeline benefits to qualified consumers contrary to the purpose of the program. A cap would also be difficult to fairly administer among the states with varying eligibility criteria. We recommend that the Commission first focus its efforts to eliminate duplication, waste, fraud and abuse. After such time, the Commission should then re-examine the size and priorities of the low-income fund.

If a cap is ultimately imposed, the most administratively simple means to implement a cap is to allow current participants in the program to receive priority funding, and to allow the remaining funding to be allocated on a first-come, first-served basis. We note that even if a cap is implemented in this manner, it will still place an administrative burden on states to track the next eligible applicant and to inform the applicant and carriers when such applicants become eligible to receive support.

Current participants should not be required to re-enroll in the program after a specified date in order to receive funding. The NPSC is not equipped to reprocess its entire participant base quickly. The NPSC employs a small staff of two full-time employees in its Lifeline/Link Up program and has a limited personnel budget to administer its entire program. A delay could result in current participants forgoing benefits for some period of time. Additionally, monthly benefits should not be reduced in order that all eligible households that seek to participate in the program can do so. Changing benefit amounts from month to month would result in confusion for Lifeline subscribers, leading to numerous inquiries and increased administrative burdens for both state agencies and carriers.

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[13] *See id*, paras. 145-148.

Eligibility Criteria for Lifeline and Link Up

The NPSC strongly believes that each state should be allowed to establish its own eligibility criteria and should not be required to utilize the program criteria currently utilized by federal default states.[14] States should continue to have the flexibility to determine the best way to establish eligibility for their citizens. In Nebraska, the NPSC staff utilizes income verification confirmed by participation in other low-income programs- Medicaid, Children's Medicaid, Food Stamps, Low-Income Housing Energy Assistance Program (LIHEAP), Federal Public Housing Assistance, or Supplemental Security Income (SSI). The income requirements for these programs mirror those of Lifeline and Link Up, and their income is verified during the application and compliance process for those programs. The NPSC staff is able to make use of the verification work already done by other agencies in charge of the programs listed, which saves time and resources while accomplishing the same goal.

Requiring states such as Nebraska to utilize the federal eligibility criteria will result in a significant administrative burden. Nebraska does not use income criteria because it would require NPSC staff to review and verify the accuracy of information received from the applicant and require the storage of sensitive documents such as tax returns. Additionally, an income standard would only capture persons who are already eligible for the programs the NPSC has chosen to use to determine eligibility. For instance, the NPSC does not utilize the TANF program because persons qualifying for TANF automatically qualify for Medicaid, therefore adding TANF would not make

[14] *See id.*, paras. 153-157.

additional persons eligible. In addition, Nebraska does not use the National School Lunch Program due to its self-certification process in which the reported income is not always verified.[15] Therefore, the NPSC believes that the programs it currently uses to determine eligibility basically encompass the same group of individuals as would the federal default eligibility criteria and would not require states to engage in the burdensome process of income verification.

In addition, a national database could not be updated to reflect changes in income eligibility as there is no comprehensive source for income data. Therefore, the NPSC believes that using selected program participation is a better validated and more efficient means of determining eligibility than using income data. In Nebraska, the NPSC staff gathers documentation establishing household eligibility; therefore, individual ETCs are not involved in the process.

Modifying Certification Procedures

The NPSC strongly supports the proposal to eliminate the self-certification option for Lifeline program eligibility.[16] Self-certification alone is not sufficient to determine eligibility; supporting documentation must be required. We believe that eliminating self-certification will reduce opportunities for waste, fraud, and abuse by identifying and eliminating ineligible consumers from enrolling in the program. Nebraska diligently checks applicant eligibility by requiring documentation from the state or federal agency

[15] *See In the Matter of the Nebraska Public Service Commission on its own Motion Seeking to Establish Guidelines for the Administration of the Nebraska Lifeline Program,* NUSF-2, Progression Order No. 8 (December 7, 2004).

[16] *NPRM,* para. 170.

that administers the qualifying program for all Lifeline and Link Up applicants prior to providing benefits. The NPSC also works in conjunction with the Nebraska Department of Health and Human Services (DHHS) to confirm an applicant's participation through pre-approved application forms. These processes significantly reduce the number of ineligible consumers participating in the program, whereas self-certification would increase that number dramatically. Therefore, the self-certification option should be eliminated.

Modifying Annual Verification Procedures

The NPSC supports the sample-and census proposal, which would allow an ETC to sample its customers so long as the rate of ineligibility among responders to the survey is below a fixed threshold, as the uniform methodology to be used by all states for verification to provide additional protections against waste, fraud and abuse. [17] However, if the ineligibility rate exceeds the threshold, the ETC would be required to take a census of all customers. The NPSC believes that a 5 percent threshold of ineligible respondents is appropriate to trigger a census of all Lifeline customers, and that such a census should take place immediately, not the following year, in order to more quickly discontinue support to ineligible subscribers.[18] The NPSC supports the proposal to establish a higher threshold of ineligibility that would revoke an ETC's ability to receive support.

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[17] *See id.*, paras. 177-178, *see also NPRM* Appendix C.

[18] *NPRM*, para. 183.

De-Enrollment of Consumers

The NPSC supports the proposal requiring ETCs to de-enroll from the program consumers who decline to respond to the ETC's verification attempts.[19] This proposal is consistent with the recertification procedure used in Nebraska in which consumers that do not respond to a recertification request are de-enrolled. This policy has eliminated consumers who were no longer eligible, no longer received service, or were duplicate applications, significantly reducing fraud and waste in the Nebraska program. Additionally, ETCs should not be allowed to continue receiving support for a Lifeline customer whom the ETC has received no verification of continued eligibility. ETCs should receive support only for those customers who are verified as still being eligible to receive Lifeline benefits.

Lifeline Provider Registration

The NPSC strongly objects to AT&T's proposal to eliminate ETC designations for carriers that wish to offer Lifeline discounts.[20] Under the current mechanism, states have the option of revoking ETC status if carriers do not comply with Lifeline program requirements. However, it appears that AT&T's proposal to establish a "Lifeline Provider" registration would not allow for states to take any action for noncompliance with state-specific Lifeline requirements. States should continue to enforce state-specific

[19] *Id.*, para. 93.

[20] *See NPRM*, paras. 310-312.

Lifeline requirements and ensure that providers are following through with commitments made by virtue of their ETC designations. Carriers may choose to not offer Lifeline service to low-income consumers if there is no consequence for making that choice.

CONCLUSION

The NPSC appreciates the opportunity to comment on the Commission's recommended proposals. We look forward to working with the Commission as it develops meaningful reform of the Lifeline/Link Up program.

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Respectfully Submitted,

Nebraska Public Service Commission

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